

WORKGROUP #3

Committee on Improving Judicial Oversight and Processing of Probate Court Matters

June 1, 2011 v1

Form 5. PETITIONER'S GOOD FAITH ESTIMATE

Name of Person Filing Document: _____

Address: _____

City, State, Zip Code: _____

Telephone Number: _____

Attorney Bar Number (if applicable): _____

Licensed Fiduciary Number (if applicable): _____

Representing Self or Attorney for: _____

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF «COUNTY»

IN THE MATTER OF THE
CONSERVATORSHIP FOR

«Protected Person's Name»,

☐ a Minor

☐ an Adult

NO. «CaseNo.»

PETITIONER'S
GOOD FAITH ESTIMATE

☐ Amendment

(Assigned to the Honorable
«Judicial Officer»)

REQUIRED ATTACHMENTS, which are to be attached in the following order:

☐ SCHEDULE 1: Good Faith Estimate

☐ Supporting Detail required for SCHEDULE 1

PETITIONER'S CERTIFICATION

I, the undersigned, acknowledge that I have read and reviewed this form, accompanying schedule and attached supplements, and after reasonable inquiry have a good faith belief that the information in this report is true, accurate and complete to the best of my knowledge and belief.

<<Petitioner's Name>>

<<Date>>

Form 5. Continued

INSTRUCTIONS FOR FORM 5: PETITIONER'S GOOD FAITH ESTIMATE

Purpose of Form:

Use Form 5 to prepare a good faith estimate of disbursements that you, as the Petitioner, anticipate during the first year of administration of the proposed conservatorship. This good faith estimate is required by Rule 30.1, Arizona Rules of Probate Procedure, and may form the basis for financial orders the Court may enter if a conservator is appointed.

Typically, a good faith estimate is made when some information about the needs of the proposed protected person may not be available, just as some of the conservatorship operating costs may be unknown.

The judge understands the inherent difficulties in preparing a good faith estimate and that these difficulties may limit your ability to make reliable estimates of some probable costs. **However, as the Petitioner, you are required to submit a good faith estimate based upon the information that is reasonably known by you following reasonable efforts to obtain the necessary information.** For obvious reasons, the judge's expectations will be relaxed if you have no prior experience as a Petitioner, as compared to a good faith estimate prepared by a licensed fiduciary or licensed attorney.

Please note that you are not required to provide an estimate for medical costs; this information is commonly unavailable due to privacy considerations. However, if you can make a good faith estimate of medical costs, you should do so.

If you are unable to complete all or part of a good faith estimate, you are required to provide a written statement attesting to your due diligence and describing your efforts to acquire any needed information, which was ultimately unobtainable.

Finally, you are required to provide supporting detail to your good faith estimate explaining your good faith estimate for each line.

When to File:

Form 5 is filed at the time the petition is filed but should be filed separately under seal; the estimate is not available for public inspection.

While the Petition is pending, you have an obligation to amend your good faith estimate if you learn additional information, which changes

original estimate, after filing your original Form 5. The amended Form 5 shall be filed not less than five (5) days prior to the hearing on the Petition.

General Instructions:

All references in these instructions to "you" refer to the Petitioner. All references to "year" refer to the first twelve months following the issuance of Letters of Appointment of a conservator.

Form 5 requires supporting attachments, as applicable, including:

- SCHEDULE 1: Good Faith Estimate
- Supporting Detail: Explanation of the estimated costs

As to any supporting detail to SCHEDULE 1, identify the line on SCHEDULE 1 and, if appropriate, column being explained.

Helpful Suggestion:

These instructions assume that Form 5 and SCHEDULE 1 are being completed manually with paper forms. However, Form 5 and SCHEDULE 1 are also available in an electronic format at no cost and will automate all of the calculations. Please see: [www.azcourts.gov/\[add\]](http://www.azcourts.gov/[add])

Notice:

Any estimates allowed or required by these instructions are not designed or intended as a basis for civil liability, criminal liability, or to serve as the basis for litigants to seek collateral remedies against each other or obtain tactical advantages in proceedings before a court.

Specific Instructions:

SCHEDULE 1 (Form 5): Good Faith Estimate

Column Instructions: SCHEDULE 1 consists of three columns.

- Column A includes the estimated monthly disbursements of a conservator. These are typically

recurring disbursements that repeat from month-to-month.

- Column B includes the estimated annual disbursements. These include one-time disbursements and twelve months of estimated monthly disbursements.
- Column C includes your explanation of the estimated disbursements; if additional space is required, attach supporting detail.

Line Instructions:

Provide an explanation for each line of your estimate in Column C; if additional space is required, attach supporting detail.

If the estimate for any line is zero, enter 0.

If the estimate for any line is unknown, write "unknown" for that line.

Estimated one-time, first year disbursements:

Line 1 – Estimated Total Attorney Fees and Costs UNTIL issuance of Letters: Enter in Column B the one-time, total attorney fees and costs incurred or projected to be incurred by the proposed protected person's estate until the issuance of Letters of Appointment to a conservator. This estimate includes the fees of all attorneys who intend to be paid by the proposed protected person's estate. Fees and costs are subject to the Statewide Fee Guidelines.

In making this estimate, you may assume that the Petition will not be significantly contested unless you have reason to believe the Petition will be contested.

Line 2 – Estimated Fiduciary Fees and Costs to Prepare Inventory: Enter in Column B the one-time, total fiduciary fees and costs to prepare the inventory as required by Arizona Revised Statutes section 14-5418. Fees and costs are subject to the Statewide Fee Guidelines.

Line 3 – Estimated Other One-Time Disbursements: Enter in Column B any other known or probable one-time disbursements during the first year of a conservatorship. Provide supporting detail explaining other estimated one-time disbursements.

Line 4 – Total Estimated One-Time Disbursements: Enter in Column B the sum of lines 1 through 3.

Estimated monthly, first year disbursements:

Line 5 – Estimated Food, Clothing, and Shelter: Enter in Column A the monthly estimated disbursements for goods or services provided to a protected person that are essential for survival including food, clothing, and shelter; do not include medical costs.

For the limited purpose of estimating a disbursement on this line, disbursements for food, clothing, and shelter remain essential for survival even if there are less expensive alternatives.

For example: Enter the regular fees to a care facility, required companions or care providers, food, clothing, toiletries, utilities, or household expenses, including home mortgage payments.

Line 6 – Estimated Medical Costs (Optional): An entry on line 6 is optional; you are not required to provide a good faith estimate of medical costs.

However, if you can provide a good faith estimate for medical costs AND if you elect to do so, enter in Column A the monthly estimated medical payments for the protected person, including but not limited to medical, dental, optical, hearing, medical equipment and supplies, prescription and non-prescription medicines, insurance premiums and co-pays.

Line 7 – Estimated Dignity Funds: Enter in Column A the estimated monthly funds that will be released directly to the protected person as a spending allowance. Do NOT estimate how the protected person may expend these funds; these funds are no longer considered part of the conservatorship estate.

Line 8 – Estimated Debt Service on Liabilities: Enter in Column A the estimated monthly debt service payments on debts, such as loans and personal debts of the protected person.

Please note: Do NOT include the home mortgage payment on the residence where the protected person resides; this is included on line 4.

Line 9 – Estimated Discretionary Expenditures: Enter in Column A the estimated monthly discretionary expenditures.

Discretionary expenditures includes all goods and services provided to a protected person that are not essential for survival but are designed to improve or prolong the quality and enjoyment of life for the protected person, such as entertainment and vacation costs. Discretionary care does NOT include expenditures that are estimated on another line on SCHEDULE 1.

Line 10 – Estimated Other Disbursements for Protected Person: Enter in Column A any other estimated monthly disbursements for the

protected person that are not included on another line on SCHEDULE 1, including estimated disbursements made for a dependent of the protected person.

Line 11 – Total Estimated for Protected

Person: Enter in Column A the sum of lines 5 through 10.

Line 12 – Estimated Fiduciary Fees and

Costs, Excluding Inventory: Enter in Column A the estimated monthly disbursements for Fiduciary Fees and Costs, excluding the cost to perform and prepare the inventory.

Fees are compensation paid to the Fiduciary. Costs include administrative charges that are authorized in the Statewide Fee Guidelines, such as filing fees and postage. Costs do NOT include funds advanced for the benefit of a protected person, such as disbursements for food, clothing and shelter.

Line 13 – Estimated Fiduciary’s Attorney

Fees and Costs: Enter in Column A the estimated monthly Fiduciary’s Attorney Fees and Costs incurred AFTER issuance of Letters of Appointment.

Line 14 – Estimated Protected Person’s

Attorney Fees and Costs: Enter in Column A the estimated monthly Protected Person’s Attorney Fees and Costs AFTER issuance of Letters of Appointment, including fees and costs to any court-appointed counsel or guardian ad litem.

Line 15 – Estimated Other Administrative

Fees and Costs: Enter in Column A the estimated monthly disbursements that are an administrative fee or cost of the conservatorship that are NOT included on another line on SCHEDULE 1, such as a financial advisor or accountant. Attach supporting detail explaining any other estimated administrative fees and costs.

Line 16 – Total Estimated Administration

Disbursements: Enter in Column A the sum of lines 12 through 15.

Line 17 – Total Estimated MONTHLY

Disbursements: Enter the sum of lines 11 and 16 in Column A.

Line 18 – Total Estimated ANNUAL

Disbursements: If you have not already done so, multiply all the entries in Column A by 12 and enter each result in Column B. Enter the sum of lines 4, 11 and 16 in Column B.

Line 19 – Due Diligence Statement: If you entered “unknown” on any line of the good faith estimate, except for medical costs, you are required to describe the efforts taken to acquire any needed information, which was ultimately

unobtainable at the time of the good faith estimate.

FORM 5: Petitioner’s Good Faith Estimate:

Form 5 is largely a self-explanatory document; it serves as a coversheet for your good faith estimate.

When filing Form 5, you are required to attach SCHEDULE 1 and any supporting detail required by SCHEDULE 1. Check each box on Form 5 for each included attachment.

When amending Form 5, include any required attachments that are changed as a result of the amendment. Check each box on an amended Form 5 for each included attachment.

Organize all required attachments in the same order as shown on Form 5.

Sign Form 5 when you are finished and have reviewed the form and all required attachments. When you sign, you are certifying that you have read and reviewed the entire report and, after reasonable inquiry, you have a good faith belief that the information in this report is true, accurate and complete to the best of your knowledge and belief.

If the Petition to appoint a conservator is granted, the conservator will use Form 6 if the Court requires an operating budget. A budget is typically due 90 days after issuance of Letters of Appointment. At the time of the first annual conservator’s account, the conservator will use Form 7. Instructions are included with each form.